

Congress of the United States
Washington, DC 20515

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Federal Communications Commission
Office of Secretary

April 8, 1997

Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

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RE: CS Docket No. 97-55 "Comment On Industry Proposal for Rating Video Programming"

Dear Sir/Madam:

As Members of Congress who support the V-Chip amendment to the Telecommunications Act of 1996¹, several of whom participated in the actual drafting of this amendment, we offer these comments concerning Congress's intent in approving this legislation and sending it to the President for his signature². It is our view that the age-based ratings system proposed by the industry undermines the usefulness of the V-Chip to such an extent that the purposes of the statute cannot be fulfilled. We urge you not to approve this proposal unless the industry amends it sufficiently to make it possible to meet the statute's objectives.

1. Ratings Are Intended, First and Foremost, For V-Chip Blocking

In making your decision about whether the industry proposal is "acceptable" under the law, we wish to emphasize the importance of staying focused on the primary reason that we passed this law. The objective was not to promote a ratings system for its own sake, but rather to provide parents with an effective method of blocking violent or other adult programming.³ This purpose should be the focus of your analysis of the industry proposal and must not be sacrificed to ancillary purposes not associated with enabling parents to make blocking choices using the V-Chip.

This purpose has been overlooked or minimized by the industry itself and by many observers, due in part to the fact that for procedural reasons the Commission has separated this decision on the acceptability of the industry ratings proposal from the rulemaking on technical specifications for the incorporation of the V-Chip into new television receivers. Much of the industry's argument in favor of its system has focused on its benefit as a source of information on-screen or in print.⁴ We agree that such benefits are valuable and we hope parents make use of them. But such virtues are not controlling or even relevant to judging its acceptability under the statute. In fact, a system that might be acceptable for purposes of sending messages on screen might very well

¹ Public Law No. 104-104, Title V, Subtitle B, section 551(e)(1).

² Public Notice, *Commission Seeks Comment on Industry Proposal for Rating Video Programming*, CS Docket No. 97-55, FCC 97-34, Report No. CS 97-6 (February 7, 1997). The President signed the bill into law February 8, 1996.

³ *Op. cit.*, Pub. L. No. 104-104, Section 551(a)(7), (8) and (9). See also floor debate (Rep. Markey: "Mr. Chairman, this amendment will give every parent in the United States a violence chip in their television set so that they will be able to block out excessively violent and sexually explicit programming ...") Cong. Rec. H8486 (daily ed. Aug. 4, 1995.)

⁴ See "Industry Proposal", letter to Mr. William F. Caton, Secretary, FCC (Jan. 17, 1997.)

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be "unacceptable" if it results in reducing the usefulness of the V-Chip. The fundamental purpose of the statute must still control in determining the acceptability of the industry proposal, and that fundamental purpose is the effective implementation of the V-Chip blocking technology.

2. The Successful Operation of the V-Chip Requires Identification of Content

To accomplish the statute's purpose, it was our intention to stimulate the development of a ratings system that would permit the "identification and rating of video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children..."⁵ Parents were to have the content of the shows identified for them by the industry through ratings, and then the parents would be free to make their own judgments concerning the maturity of their own children and whether to block on the basis of a rating for violent, sexual or language content.

This policy was consistent both with the most recently developed ratings systems on television and with the technological capacity of the V-Chip itself. At the time we debated and passed this law, the most fully developed ratings system in use on American television was the so-called "HBO-Showtime" system. Available on at least four premium cable channels, it provided ratings determined by the cable channels themselves based on content. HBO developed this system over a decade ago, and Showtime, Cinemax, and the Movie Channel joined in 1993. This content ratings system includes basic descriptions for three content categories -- violence, sex and language -- as well as a separate category for rape. Meanwhile, beginning in 1993, the Electronic Industries Association (EIA), which represents the companies that would be required to install the V-Chip in TV sets, proposed a consensus standard for the V-Chip based on the HBO-Showtime TV ratings system. It assumed the same three content categories of violence, sex and language.⁶

In short, in the years and months preceding and contemporaneous with consideration of the V-chip law in Congress, the public debate regarding the use of a TV ratings system with the V-chip did not even contemplate an age-based system, but, rather, anticipated a system based on the consensus standard developed by the EIA. This was a content-based standard based on the HBO/Showtime system.

3. The Industry Proposal Does Not Identify, But Rather Hides, Specific Content

The industry proposal, by contrast, has the effect of obscuring, not identifying, the actual content of the programming. Content that is consistently separated into individual categories in the statute has been blended into single, homogenous categories in the industry proposal. This has led to a result which is predictable and debilitating to parents, both in trying to understand the proposal and in deciding how to use the V-Chip. Under the industry proposal, a program labeled "TV-PG" may, or may not, have violent content or sexual content, some of which may be very graphic, as long as it is limited in duration. Such a broad, catchall category has, not surprisingly, led those who attach the ratings to rate practically every show that requires a rating "PG", from the mild to the graphic, from the silly to the sick, from the profound to the profane. Several analyses have confirmed that under the industry's proposal for television, approximately 2/3 of all rated programming is ending up in the "TV-PG" category.⁷ This is not helpful to parents and will render the V-Chip less useful to them.

⁵ Op. cit., Pub. L. 104-104, Section 551(b)(1).

⁶ See, e.g., Electronic Industries Association, Standards Proposal No. 3688, Proposed Revision of EIA-608 "Recommended Practice for Line 21 Data Service" (Feb. 12, 1996) p. 39.

⁷ See, e.g., Parents Television Council, "TV Ratings Report Card: F for Failure", (Feb. 1997), (PG rating given to more than 3/5 of programming.); Testimony of Lois Salisbury, President, Children NOW, before the Senate Committee on Commerce, Science, and Transportation, (Feb. 27, 1997) ("Under the system the industry has proposed, two-thirds of all prime time shows have received the same rating -- PG...")

Conclusion

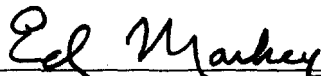
In summary, the legal standard of acceptability that the proposed rating system must meet can be found in the overall purpose of the statute. The statute requires TV set manufacturers to install V-Chip that parents can use to block on the basis of common ratings. It is the intent of Congress that the ratings provide a range of choices based on content that may be considered harmful to children, including violent and sexual material. The industry proposal makes no distinction between violent or sexual material, thus reducing parental choice and frustrating the capabilities of the V-chip. Choices that we contemplated having parents make for themselves have, instead, been arrogated to the industry itself. Parents who had expected to be given distinct content-based blocking choices using the V-Chip are instead being given essentially just one vague rating. This is contrary to the purpose of the statute. The statute is intended to empower parents, not the TV industry.


Therefore, we believe that the Commission has no choice but to find the industry proposal "unacceptable" under the statute.


Thank you.

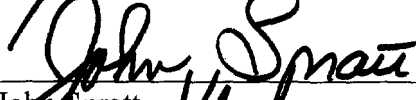
Sincerely,

Members of the House


Edward J. Markey

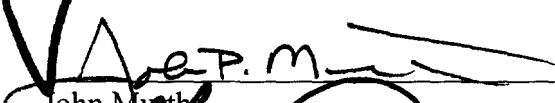

Dan Burton



James P. Moran


John Spratt


Ron Klink



James C. Greenwood


John Murtha

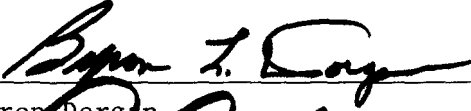

Glenn Poshard


William O. Lipinski


Members of the Senate


Joseph Lieberman

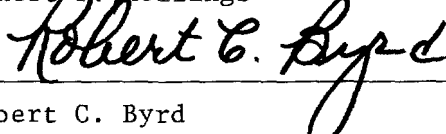

Kent Conrad


Byron Dorgan


Dan Coats


Slade Gorton


Ernest F. Hollings


Robert C. Byrd

Bob Filner

Bob Filner

Joe Kennedy

Joe Kennedy

Bob Goodlatte

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Earl Pomeroy

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